

**REMARKS**

Claims 1, 7-19, and 21 are pending in this application.

Applicant has amended claims 1, 7, 13, and 19, has canceled claims 2-6 and 20, and has added new claim 21. These changes do not introduce any new matter.

**Rejection Under 35 U.S.C. § 101**

In response to the rejection of claim 19 under 35 U.S.C. § 101 as being directed toward non-statutory subject matter, Applicant has amended this claim to define a computer-readable storage medium encoded with a computer program. Applicant submits that claim 19 now defines statutory subject matter under 35 U.S.C. § 101, and requests that the rejection of this claim thereunder be withdrawn.

**Rejections Under 35 U.S.C. § 103(a)**

Applicant respectfully requests reconsideration of the rejection of claims 1, 5-7, 11-13, and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over *Herman et al.* ("*Herman*") (U.S. Patent No. US 6,903,782 B2) in view of *Matsushima* (U.S. Patent No. US 7,251,056 B2) (as noted above, claims 5, 6, and 20 have been canceled herein). As will be explained in more detail below, the combination of *Herman* in view of *Matsushima* would not have rendered the subject matter defined in independent claims 7, 13, and 19, as amended herein, obvious to one having ordinary skill in the art.

Applicant has amended independent claim 7 to define an image data processing device that has, among other features, the following two features. First, if the proportion of pixels having hue of a predetermined color range relative to all pixels within the subject area is greater than a first predetermined threshold value, the image quality adjuster executes an image quality adjustment process on the image data which is appropriate for an image containing a subject identified by the predetermined color range. Second, the image quality adjuster does not execute the image quality adjustment process if the shooting mode indicated

by the shooting mode information is a mode which is not a standard scene mode and which was manually set in the image generating device. Independent claims 13 and 19, which respectively define a method and a computer-readable storage medium, have been amended along the same lines that claim 7 has been amended. Support for the changes made to claims 7, 13, and 19 can be found in Applicant's specification at, for example, page 2, lines 1-6, page 16, line 12 to page 19, line 21, and page 22, lines 23-29.

The first and second features described above enable the claimed subject matter, as defined in amended claims 7, 13, and 19, to readily execute the image quality adjustment process appropriate for the image, while preventing the same processing from being executed twice on the image data if the shooting mode was manually set in the image generating device. Neither the *Herman* reference nor the *Matsushima* reference discloses or suggests the features that have been added to independent claims 7, 13, and 19. Thus, even if these references were to be combined in the manner proposed by the Examiner, the presently claimed subject matter would not have resulted. As such, the combination of *Herman* in view of *Matsushima* would not have rendered the presently claimed subject matter obvious to one having ordinary skill in the art.

Accordingly, independent claims 7, 13, and 19, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Matsushima*. Claims 1, 11, and 12, each of which ultimately depends from claim 7, and claims 17 and 18, each of which ultimately depends from claim 13, are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Matsushima* for at least the same reasons set forth above regarding the applicable independent claim.

Applicant respectfully requests reconsideration of the rejection of claims 2-4, 8-10, and 14-16 under 35 U.S.C. § 103(a) as being unpatentable over *Herman* in view of *Matsushima*, and further in view of *Hoshuyama et al.* ("*Hoshuyama*") (U.S. Patent No. US

6,906,744 B1) (as noted above, claims 2-4 have been canceled herein). Each of claims 8-10 ultimately depends from independent claim 7 and each of claims 14-16 ultimately depends from independent claim 13. The *Hoshuyama* reference does not cure the above-discussed deficiencies of the combination of *Herman* and *Matsushima* references relative to the subject matter defined in claims 7 and 13, as amended herein. Accordingly, claims 8-10 and 14-16 are patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Matsushima*, and further in view of *Hoshuyama* for at least the reason that each of these claims ultimately depends from either claim 7 or claim 13.

#### New Claim

As noted above, Applicant has added new claim 21, which ultimately depends from claim 7. Claim 21 specifies that the image quality adjustment process appropriate for a portrait image is a process for weakening sharpness. Claim 21 is believed to be patentable over the prior art of record for at least the reason that this claim ultimately depends from claim 7.

#### Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1 and 7-19, as presented herein, as well as examination of claim 21, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902.

**Application No. 10/525,854**  
**Amendment dated December 21, 2007**  
**Response to Office Action mailed September 21, 2007**

If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP132).

Respectfully submitted,  
MARTINE PENILLA & GENCARELLA, L.L.P.

A handwritten signature in black ink, appearing to read 'Peter B. Martine', with a long horizontal line extending to the right.

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